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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/488,509	01/20/2000	Frank Leymann	12992(GE998-062)	4530

7590 09/10/2003

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EXAMINER

MEINECKE DIAZ, SUSANNA M

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 09/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

SW

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/488,509	LEYMANN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Susanna M. Diaz	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 16 June 2003.

2a) This action is **FINAL**.                                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 18-32 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 18-32 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>7</u> .	6) <input type="checkbox"/> Other: _____

### **DETAILED ACTION**

1. This Final Office action is responsive to Applicant's amendment filed June 16, 2003.

Claims 1-17 have been cancelled.

Claims 18-32 have been added.

Claims 18-32 are presented for examination.

2. The previously pending objections to the specification are withdrawn in response to Applicant's amendment of the specification, including the abstract.

The previously pending objections to and rejections of the claims are obviated by Applicant's cancellation of all previously pending claims 1-17. New rejections are found below.

#### ***Response to Arguments***

3. Applicant's arguments filed June 16, 2003 have been fully considered but they are not persuasive.

Applicant argues that the prior art of record fails to teach the limitation regarding provision of "an impact analysis on the individual activities within each business process" (Page 10 of Applicant's response). The Examiner respectfully disagrees. A typical workflow requires that previously scheduled processes/activities be completed before beginning and/or completing other subsequently scheduled processes/activities; therefore, workflow management (as taught by Gabbita, Ackroff, and Topff) inherently

incorporates at least a general analysis of impacted business processes and activities that are affected by an error event, as recited in independent claims 18 and 30-32.

Applicant argues that none of the prior art of record discloses the combination of SMS and WFMS technologies (Pages 11-12 of Applicant's response). The Examiner respectfully disagrees. In the previous Office action, the previous Examiner of record (Kyle Choi) explained, "Although Gabbita et al. does not specifically use the term 'Systems management system,' the monitoring of the workflow process and providing automated management of the workflow events including problems constitute the functionality of systems management systems and therefore is considered to be anticipated by Gabbita et al." Additionally, Examiner Choi utilized the combination of Ackroff and Topff to address the combination of SMS and WFMS technologies. In response to Applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Applicant fails to address the explanations made by Examiner Choi in the art rejections set forth in the previous Office action, Paper No. 5; therefore, Applicant's arguments are deemed to be non-persuasive.

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 31 and 32 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 31 and 32 appear to be computer program product (i.e., article of manufacture) claims; however, claims 31 and 32 are written in an improper computer program product claim format since it is not clear what is meant by the recitation of the program "read into a computer device" (see lines 1-2 of each claim). "Read into" implies that the program is merely stored by the computer device. Instead, the program must not only be embodied on a computer readable medium, but it must also be executed by the computer device. The Examiner respectfully requests that such clarification be made in claims 31 and 32 in order to place these claims into a proper computer program product claim format. For examination purposes, claims 31 and 32 will be treated as computer program product claims. Please note that if this is not Applicant's intention, issues of non-statutory subject matter might be raised under 35 U.S.C. § 101.

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 18-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Gabbita et al. (U.S. Patent No. 6,349,238).

Gabbita et al. teaches monitoring workflow processes of an organization such as a telecommunications company for error events (i.e., Jeopardy points; col. 12, ln. 23) and alerts predefined operators in the organization (col. 12, ln. 28). The alerts are in the form of notification messages (col. 12, ln. 36) containing that the event is, who was assigned to the task, and its priority level (col. 12, lns. 44-53). The error events are then either fixed or reassigned (col. 3, lns. 7-10). All of these actions are displayed through the LSAT User Interface (col. 12, ln. 64).

Although Gabbita et al. does not specifically use the term "Systems management system", the monitoring of the workflow process and providing automated management of the workflow events including problems constitute the functionality of systems management systems and therefore is considered to be anticipated by Gabbita et al.

Furthermore, the enterprise console recited is nothing more than a console that manages and displays collected events in a distributed network system. LSAT User Interface and its associated automatic monitoring of the workflow events in Gabbita et al. is therefore considered to be the enterprise console as recited in the claims and is therefore anticipated.

Additionally, a typical workflow requires that previously scheduled processes/activities be completed before beginning and/or completing other subsequently scheduled processes/activities; therefore, workflow management (as

taught by Gabbita) inherently incorporates at least a general analysis of impacted business processes and activities that are affected by an error event, as recited in independent claims 18 and 30-32.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 18-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ackroff et al. (U.S. Patent No. 5,721,913) in view of Topff et al. (U.S. Patent No. 6,026,500).

Ackroff et al. teaches an integrated activity management system that constitutes workflow management of activities assigned to various operators in the organization in a

distributed network environment. The system tracks all the operation of a business (i.e., the business processes) as each process moves through the workflow (see at least the Abstract). Ackroff et al. does not teach using SMS to monitor and alert operators of error events that occur in the workflow process.

Topff et al. teaches using SMS to monitor and report error events in a distributed network environment. The SMS in Topff et al. is used to monitor hardware and software errors of the distributed network (col. 3, Ins. 32-35) and obtains the details of the error information and events (col. 3, Ins. 45-50). The event manager then forwards the error events and associated information automatically to the help desk for resolution of the problem (col. 4, Ins. 8-18).

It would have been obvious for one with ordinary skill in the art at the time of the invention to have utilized the automated SMS of Topff et al. in the workflow management system of Ackroff et al. because a workflow management system is necessarily a distributed network system and SMS of Topff et al. manages the events associated with distributed network system. Furthermore, Topff et al. teaches that it would have been advantageous to use SMS to automate the monitoring and reporting procedures of distributed system in the manner taught by Topff et al. because of advantages of efficiency and accuracy of allowing the enterprise console to collect the information and forward the events to resolution (col. 1, Ins. 30-43; col. 2, 31-49).

Additionally, a typical workflow requires that previously scheduled processes/activities be completed before beginning and/or completing other subsequently scheduled processes/activities; therefore, workflow management (as

taught by Ackroff) inherently incorporates at least a general analysis of impacted business processes and activities that are affected by an error event, as recited in independent claims 18 and 30-32.

***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (703) 305-1337. The examiner can normally be reached on Monday-Friday, 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703)308-1113.

Any response to this action should be mailed to:

**Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450**

or faxed to:

**(703)305-7687** [Official communications; including After Final communications labeled "Box AF"]

**(703)746-7048** [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 22202, 7<sup>th</sup> floor receptionist.

*Susanna Diaz*

Susanna M. Diaz  
Primary Examiner  
Art Unit 3623  
September 8, 2003